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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/420,524	10/18/1999	MASAKAZU KANECHIKA	0068-0399-0	2921

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07/18/2002

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EXAMINER

GARCIA, JOANNIE A

ART UNIT	PAPER NUMBER
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2823

DATE MAILED: 07/18/2002

9

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/420,524

Applicant(s)

KANECHIKA ET AL.

Examiner

Joannie A Garcia

Art Unit

2823

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 April 2002.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 10-29 and 32-38 is/are pending in the application.
- 4a) Of the above claim(s) 12-29 and 32 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 10, 11 and 33-38 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

The IDS filed 12-14-99 is not included in the file. Applicant is requested to resubmit the paper.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter in which the applicant regards as his invention.

Claims 10, 11, and 33-38, are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claims 10 and 11, lines 3-4, and 4-5, respectively, it is unclear which range is recited for the radius of curvature of the conic body.

Claim 11 recites the limitation "center" in line 7. There is insufficient antecedent basis for this limitation in the claim.

Claim 11 recites the limitation "top surface" in line 8. There is insufficient antecedent basis for this limitation in the claim.

Claims 35 and 36 recite the limitation "silicon needle conic bodies" in line 6. There is insufficient antecedent basis for this limitation in the claim.

Claim 35 and 36 recite the limitation "plane direction" in line 9. There is insufficient antecedent basis for this limitation in the claim.

Claim 38 recites the limitation "memory unit" in lines 6-7. There is insufficient antecedent basis for this limitation in the claim.

Claim 38 recites the limitation "top" in line 9. There is insufficient antecedent basis for this limitation in the claim.

Art Unit: 2823

Claim 38 recites the limitation "side face" in line 10. There is insufficient antecedent basis for this limitation in the claim.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kirk et al (U.S. Patent 5,444,244), in combination with the following comments.

Kirk et al teaches a conic body 11 formed on semiconducting material substrate 100 (Figures 3C-3F, and Column 5, lines 19-51), the conic body having a radius curvature of 20 nm (Column 12, line 22) in the vicinity of its leading end. Kirk et al teaches a process yielding a tip, which has a high aspect ratio at its apex (Abstract). (Column 2, lines 3-33, and Column 3, lines 1-3). It would have been a matter of routine optimization within the teachings of Kirk et al to determine a suitable aspect ratio to achieve formation of the conic body of Kirk et al.

Claim 11 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action.

Claims 35, 36, and 38 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Art Unit: 2823

Claims 33, 34, and 37 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is an examiner's statement of reasons for allowance: the prior art taken alone or in combination neither discloses nor makes obvious the instant invention including a truncated conic body having an annular shape at its leading end with a center of a top surface partly removed. Therefore, the prior art of record neither anticipates nor renders obvious the claimed subject matter.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry of a general nature or relating to the status of this application should be directed to the Group Receptionist whose telephone number is (703) 308-0956. **See MPEP 203.08.**

Art Unit: 2823


Any inquiry concerning this communication or earlier communications from the examiner should be directed to examiner J. Garcia whose telephone number is (703) 306-5733.

The examiner can normally be reached on Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wael Fahmy can be reached on (703) 308-4918. The fax number for this group is (703) 308-7722 (and 7724), and (703) 305-3431 (and 3432). MPEP 502.01 contains instructions regarding procedures used in submitting responses by facsimile transmission.



JAG
7/15/02



George Fburson
Primary Examiner
2823